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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,926	06/26/2001	Yasuhiro Ogata	29288.1400	3852
20322 7590 02/15/2011 SNELL & WILMER L.L.P. (Main) 400 EAST VAN BUREN ONE ARIZONA CENTER PHOENIX, AZ 85004-2202			EXAMINER SHIBRU, HELEN	
			ART UNIT 2484	PAPER NUMBER
			MAIL DATE 02/15/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/892,926	<b>Applicant(s)</b> OGATA ET AL.	
	<b>Examiner</b> HELEN SHIBRU	<b>Art Unit</b> 2484	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 25-32 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments, filed 11/29/2010, have been entered and made of record. Claims 25-32 are pending and claims 1-24 are cancelled.

### ***Election/Restrictions***

2. Newly submitted claims 25-32 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The newly submitted claims drawn to a first obtaining section configured to obtain a first audio signal from a mounted recording medium; a second obtaining section configured to obtain a second audio signal from **an external audio input terminal**;... and **a mode setting section configured to set an operation mode to a reproduction mode for reproducing the first audio signal from the mounted recording medium or a stop mode for stopping reproduction of the first audio signal from the mounted recording medium; wherein when the mode setting section sets the operation mode from the reproduction mode to the stop mode, the output control section switches the sound to be output from the speaker from a sound based on the first audio**

**signal to a sound based on the second audio signal, and mutes the second audio signal.**

The original claims, claim 16 for instance, recite a first obtaining section for firstly obtaining a first audio signal from a first source; a second obtaining section for secondly obtaining a second audio signal from a second source; wherein when switching a sound to be output from the speaker from a sound based on the first audio signal to a sound based on the second audio signal, the output control section completes an output of the sound based on the first audio signal, and the mute section mutes the second audio signal.

The remaining claims are not readable on the elected invention because the applicant is now claiming a different invention than was claimed previously. See the underlined limitation above and for instance the different embodiments disclosed in the specification, at least paragraphs 0008 and 0013 of the PG Pub. The elected invention does not require the specific inventive concept. There is a search and/or examination burden for this distinct invention due to its mutually exclusive characteristics.

See also the different embodiments listed in the present Application, PG PUB paragraphs 0008-0018. Furthermore the newly submitted claims recite obtaining a second audio signal from an external audio input terminal. However in all the different embodiments disclosed in the specification, the

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second audio signal is not obtained from external audio input terminal but from a reproduction-only medium. It is the first audio signal which is obtained from external audio signal in one embodiment, and from an audio and video recording and reproduction medium in another embodiment. See paragraphs 0008-0018 at least.

Since Applicants have received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

In the event the applicant wishes to pursue such newly claimed subject matter, the applicant must file a Continuation, Divisional or CIP (in the event new matter is added) application.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/  
Examiner, Art Unit 2484  
February 13, 2011